***THE HON'BLE SRI JUSTICE BILAL NAZKI**

AND

THE HON'BLE SRI JUSTICE Ch.S.R.K.PRASAD

+WRIT PETITION NO. 21050 OF 2004

% 08-12-2004

Between:

M.Muni Reddy .

..... PETITIONER

AND

The Collector and District Magistrate, Anantapur & two others.

.....RESPONDENTS

For the Appellant : MR.C.PRAVEEN KUMAR, Advocate.
For the Respondents : THE ADVOCATE GENERAL

< Gist:

> Head Note:

? CITATIONS:

Nil

C/15

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE EIGHTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE MR JUSTICE Ch.S.R.K. PRASAD

WRIT PETITION NO : 21050 of 2004

Between:

M. Muni reddy S/o M. Ranga Reddy
r/o Gadaraguttapalli (V), Venkatreddipalli Post, Tadpatri (M),
Anantapur District

..... PETITIONER

AND

1 The Collector and District Magistrate, Anantapur
2 The Government of Andhra Pradesh rep by Chief SEcretary, Hyderabad
3 The Superintendent of Central Prison, Cherlapalli

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Habeas Corpus Under Art 226 of the Constitution of India directing

the Respondents to produce the detenu Sri S. Thirupal Reddy S/o Venkata Reddy, now detained in Central Prison, Cherlapalli, before this Hon'ble Court and he may be ordered to be released forth with after declaring his detention as illegal and void.

Counsel for the Petitioner : MR.C.PRAVEEN KUMAR

Counsel for the Respondent No.: THE ADVOCATE GENERAL

The Court made the following :

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ORDER : (per Hon'ble Sri Bilal Nazki, J)

Heard learned Counsel for the parties.

This is a writ petition filed, seeking release of Sri S.Thirupal Reddy, detained in Central Prison, Cherlapalli on orders of the District Collector, Ananthapur, passed under the Andhra Pradesh Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986 (hereinafter referred to as 'the Act'). Counter has been filed.

This case speaks of volumes about the method in which the Collectors and District Magistrates are handling issues relating to the liberties of people. We have seen in most of the cases, matters are treated in a very casual manner and it appears that the detaining authorities are either not applying mind or they are simply not aware of the importance of liberty of a human being. The order is passed in this case by the District Magistrate on 20.09.2004. Grounds of detention are also framed on the same day.

There are four instances given, which pertain to the cases registered against the detenu. First case relates to the year 1989 in

which the detenu had been acquitted on 30.12.2002. Second case relates to an offence registered in 1996 and the third case relates to 2003. Fourth case was registered in the year 2004 under Section 107 of the Criminal Procedure Code (hereinafter referred to as 'Cr.P.C.'). The District Magistrate was satisfied that the detenu was a Goonda within the meaning of the Act therefore, he passed the order of detention.

It is already held by this Court that if a person is not accused of having committed offences as a habitual offender under Chapters 16, 17 and 22 of Cr.P.C., he cannot be termed as Goonda. It is also settled by this Court that in terms of the Act, the grounds of detention are not separable therefore, if one ground is found invalid, the detention cannot be sustained. Even then, a ground was shown that the detenu was involved in a matter under Section 107 Cr.P.C. On the basis of these four grounds, the District Magistrate recorded his satisfaction and passed the order of detention, but barely 5 days after, he served another set of grounds of detention termed as "Additional grounds of detention" on 25.9.2004 on the detenu. Obviously when the order of detention was passed, these grounds of detention were not available with the detaining authority. It appears that after the person was detained, the District Magistrate found that the material/grounds collected by him and served on the detenu were not sufficient therefore, after detaining the person and putting him behind the bars, an exercise was made afresh to locate for grounds of detention. As a matter of fact, order of detention was passed in advance of consideration of material. Had this material been available at the time of recording satisfaction, then the necessity of serving additional grounds after five days would not arise. These matters need to be corrected. Therefore, while setting aside the order of detention and allowing this Writ Petition, we also direct payment of costs of Rs.5,000/- (Five thousand) towards the detenu for wrongfully confining him. The detenu shall be released forthwith if not needed in any other case.

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(BILAL NAZKI, J)

8th December, 2004.

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(Ch.S.R.K.PRASAD, J)

N.B:-

L.R.Copies to be marked.

(B/o)

ajr

One Fair Copy to the Hon'ble Mr.Justice Bilal Nazki, for his Lordship's kind perusal.

One Fair Copy to the Hon'ble Mr.Justice Ch.S.R.K.Prasad, for his Lordship's kind perusal.

To

1 The Collector and District Magistrate, Anantapur
2 The Chief Secretary, Government of Andhra Pradesh, Hyderabad
3 The Superintendent of Central Prison, Cherlapalli

4 Two C.Cs. to the Advocate General, High Court of A.P., Hyderabad (OUT)

5 Two C.D. copies.

6 8 L.R. Copies.

7 The Under Secretary, Union of India, Ministry of Law, Justice & Company

Affairs, New Delhi.

8 The Secretary, A.P. Advocates Association Library, High Court Buildings,

Hyderabad.